

Jihad: The Method for Khilafah?

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Introduction

Due to a general lack of knowledge among Muslims and Western propaganda against Islam, both Muslims and non-Muslims today misunderstand the concept of Jihad. Jihad is presented nowadays either as the call of "blood-thirsty people" to convert others to Islam by 'the sword' or as a means to establish the Islamic State or conversely it is promoted as a self-help concept whose aim is to make one a model citizen in whatever society one finds oneself in. Unfortunately none of these ideas represents the true nature and reality of Jihad in Islam.

The subject of Jihad has been discussed in considerable detail in the Qur'an. No other action has been explained in as much detail as Jihad such that some commentators and scholars of the Qur'an have even remarked that THE topic of the Quran is Jihad. A Muslim who reads the Qur'an with devotion will no doubt be determined to reach the battlefield in order to attain the benefits of Jihad. It is no surprise therefore that the Kuffar (disbelievers) conspire to keep the Muslims far away from the true understanding of the Qur'an. Similarly there are thousands of Ahadith (narrations) of the Prophet (saw) regarding Jihad.

Jihad, as a term, cannot be translated as 'holy war' or as 'struggle'. The aim of Jihad, unlike the Crusades, both past and present, is not to forcibly convert the inhabitants of other lands to our ideology i.e. Islam. Rather Jihad is the method adopted by Islam to protect land, honour and life and to save humanity from slavery to man-made regimes. The difference between the use of force by the West and that by Islam is that the Capitalist West uses force overtly and covertly for the benefit of a few, such as corporations, while Islam uses force openly and justly to carry its mercy to others.

There is no doubt that Jihad is a complicated and dangerous topic. It is one of the main Pillars of Islam after Tawhid and Da'wah. In fact Jihad is a form of Da'wah, Da'wah by the Islamic State as its foreign policy. It is dangerous because it involves taking life, property etc... it is complex because, just like a delicate surgical operation, the slightest of mistakes could be very destructive. To understand Jihad we need to understand at the outset that Allah (swt) is the only Commander, that He (swt) is the only one who gives life and takes life and that all our actions are only for Him (swt).

Meanings of Jihad

LINGUISTIC MEANING OF JIHAD

The word Jihad comes from the root word JAHADA which has many meanings in Arabic including the following: To make effort to be perfect, A studious student, To aim or to create, To work to reach the aim, To become very tired, To interrogate, To insist, To overload, To become weak from illness, A hard working person, To be love-sick, To mix, To rise, To desire, To eat a lot, To be generous, Hardship, To be cautious, To exhaust, To fight without rest. In other words AL-JAHADA linguistically is to exhaust the utmost effort until the limit of exhaustion, which could be in any aspect of ones life.

THE DEFINITION OF JIHAD

The Definition of Jihad according to the scholars such as Ibn Qudamah Al-Maqdisi, Ibn Taymiyyah and Ibn Aabideen is: *"Exhausting the utmost effort fighting for the sake of Allah, directly by your body or by assisting by money or by your saying or by recruiting Mujahideen or by any other means to help fighting"* (such as to train people) They take the Ayah *"...go out fighting young and old (exhausting utmost effort) with your body and your money..."* [EMQ 9:41] as evidence for this definition. In addition Imam Fairouz Abadi said, in his famous dictionary 'Al-Qamous Al-Muheet' that here the word 'Al-Nafir' means to go out and fight by the sword. Moreover Allah (swt) says in the Qur'an: *"Allah admires those who fight for his cause like one block... Oh believers let me guide you to a real trade that will save you from punishment, to believe in Allah and his Messenger and to fight for the sake of Allah with your money and your body, that is better for you"* [EMQ 61:4]

OPINION OF THE FOUR CLASSICAL SCHOOLS OF THOUGHT

According to Hanafi Fiqh **Imam Kasani** in his Book *Bada' Sama* defined Jihad as: *"...Exhausting the utmost effort and energy fighting for the sake of Allah by the body, money and the tongue or any other thing..."*

According to Maliki Fiqh **Imam Ibn Arafa**, transmitted by Sheikh Khalil in *Mukhtasar Al-Khalil*, said that Jihad is: *"...a Muslim to fight the Kuffar without a treaty, for the sake of Allah to make his (swt) name the highest...through his presence or going for it..."*

According to Shaafi fiqh **Imam Shirazi** in *Al-Muhazab Fil Fiqh Al-Shaafi* said that Jihad is: "...to fight the Kuffar for the sake of Allah by your body or money or tongue or by recruiting the people..." (see also *Kitab Al-Minhaj* by Imam Nawawi)

According to the Hanbali Fiqh **Imam Ibn Qudama Al-Maqdisi** said that Jihad is: "...to start to fight the Kuffar whether as Fard Kifayyah or Fard Ayn or protecting the believers from the Kuffar or guarding the border or frontier and to fight in the front line is the pillar..."

THE CUSTOMARY MEANING OF JIHAD

Jihad nowadays is fighting for the sake of Allah (swt) among the people, at the time of the classical scholars the customary and Shari'ah meanings were one, today they are different.

JIHAD ACCORDING TO THE USULIS

According to Imam **Al-Qastalani** (Shaafi), **Imam Al-Mawardi** (Shaafi), **Imam Al-Taftazani** (Hanafi) and **Imam Jirjani** (Hanafi): "...the condition to fight the Kuffar is to give victory to Islam as an aim and the intention must be to make Allah (swt)'s name the highest..."

Hence juristically, customarily and according to the Usulis Jihad is to fight for the sake of Allah (swt) or *Exhausting the utmost effort fighting the kaffir, to make Allah's (swt) Deen the highest.*

It is reported in Sahih Muslim upon the authority of Abou Sa'aed Al Kudri that the Sahabah asked the Messenger Muhammad(saw) '*What is Jihad?*' And He (saw) said '*To fight to make Allah's Deen the highest*'

This definition is comprehensive and restrictive (*Al Jamiyyah Wa al Maniyyah*). It is comprehensive because it includes the linguistic meaning of Jihad and the attributes of Jihad. It is restrictive since it involves fighting only the kuffar for the sole purpose of raising Allah's (swt) name.

NB. The fukaha insist that the *Jeem* in Jihad must not be pronounced in a soft manner i.e. it is *Al Jeem al Mushadadah*.

However there is difference of opinion as to whether Jihad is only an offensive duty or whether it can be attributed to both offensive Jihad and defensive Jihad. **Al Izz Ibnu Abdul Salaam** (Sheikh al Jihad) said that it is only

an offensive duty not defensive i.e. Jihad by definition will only be called so if we initiate fighting, the other duty (i.e. defensive Jihad) is called *Al Dafa'ah*. Defending oneself being instinctive in man just as it is with the animals, not a unique duty like offensive Jihad.

In addition **Ibnu Qayyim** laid down certain conditions for Jihad as:

1. That the Muslims must start or initiate the fighting
2. That the fighting must be against the kuffar

(**NB.** fighting the *murtadeen* (i.e. the apostates) is called *Qaatal al Ridda* and is implementation of the Islamic penal code whilst fighting the *Baghee* (i.e. the rebels) is called *Qaatal al Baghee*, neither of these being Jihad – see below for more details).

3. Al Ma'niyyah - having the intention of fighting Jihad to make Allah's (swt) Deen dominant.

(**NB.** this is not usually the case in defensive Jihad since one usually fights for victory or martyrdom not looking to implement the Islamic ruling system in such circumstances).

Divisions of Jihad

THE DIVISIONS OF JIHAD

From the above we can divide Jihad into two divisions:

1. **Al-Jihad al-Mubada'ah** - Offensive Jihad
2. **Al-Jihad al-Dafa'ah**- Defensive Jihad

However since linguistically the word Jihad connotes the exhaustion of effort it is found used within the Qur'an with different meanings e.g. Jihad of the Nafs etc... When Allah (swt) describes fighting in Jihad He (swt) therefore uses the word '*Qaatala*' and the one fighting those who fight him is called '*Muqaatil*' (whereas '*Qatala*' is to murder and the murderer is called '*Qatil*'). Allah never utilises *Qatil* i.e. murder/kill in the Qur'an in the context of Jihad but rather *Qitaal* i.e. fight since life has sanctity in Islam.

Imam Shaafi said that the reason why we fight the kuffar (in offensive Jihad) is because they reject our Deen i.e. are at war with our Deen. Imam Abu Hanifa on the other hand said that we fight the kuffar (offensive Jihad) because i) they fight us and ii) they reject our Deen to be implemented.

THE EVIDENCE FOR DEFENSIVE JIHAD OR JIHAD AL-DAFA'AH

There are many detailed evidences for this duty including Surah Al-Tauba verse 36 where Allah (swt) says: *"And whosoever does any aggression against you retaliate against them in the same manner but know that Allah is with those who restrain themselves."*

It is reported in the Musnad of Imam Ahmed that Abu Sa'aed Al Kudri asked the Messenger Muhammad (saw) **"What is aggression?"** and He (saw) said **"When they fight you for your Deen or for your wealth or for your life"**.

Imam Ahmed also reported that the Messenger Muhammad (saw) also said: **"whoever dies defending his Deen is a martyr, whoever dies defending his wealth is a martyr and whoever dies defending his homeland is a martyr"**.

The divine indication i.e. *Qarina* that it is an obligation to defend yourself is that firstly, Allah (swt) connects the issue of fighting with that of Taqwa ("...Allah is with those who restrain themselves...") and secondly, that

retaliation is permitted here whereas the general rule for a Muslim is that he is not permitted to retaliate.

When the enemy enters Muslim land, such as in Palestine, Chechnya, Kosova or Kashmir, the obligation to defend upon the Muslims within travelling distance of the aggression is called Fard Mu'ayyan. If the liberation of the land is not accomplished after a certain time by these people who are within travelling distance of the occupation or attack, then the obligation will move travelling distance away and it will also be an obligation then for those living nearest to those being attacked to engage physically by fighting to liberate the land entered. In the meantime Muslims worldwide will have the burden to liberate this land and an obligation from the first day to support those fighting which support can be physical, verbal or financial, wherever the Muslims live.

NB. 'Support' can be of many types and is not limited to helping fight the enemy physically on the battlefield.

THE EVIDENCE FOR OFFENSIVE JIHAD OR JIHAD AL-MUBADA'AH

There are many detailed evidences for this duty including Surah Al-Tawba verse 123 where Allah (swt) says: *"Fight those who do not believe in Allah and his Messenger and let them find harshness in you"*

In fact this is the last ayah which was revealed concerning Jihad in the Qur'an. Hence there is no doubt that offensive Jihad is an obligation upon us until the day of Judgement. Moreover the Messenger Muhammad (saw) said: **"Fight the Mushrik with your money, by your tongue and your body"** which also indicates an offensive duty. It is also narrated by Muslim from Buraidah (ra), from Abdullah Bin Omar (ra) that Rasoul Allah (saw) never fought people until he called them to Islam.

The conditions for Offensive Jihad are:

1. That you must fight under the banner of Islam.
2. That you must fight with the *Niyyah* to make Allah (swt) 's Deen the highest
3. That you must prepare for it beforehand. This last condition is taken from the ayah in Chapter Al-Anfal verse 60 where Allah (swt) says: *"Prepare as much as you can... in order to put fear into the hearts of the enemy"*

Reality of Dar ul-Harb and Dar ul-Islam

There are many types of Dar in Islam either attributed to Dar ul Islam or Dar ul Kufr. The law and order makes land Dar ul-Islam or Dar ul-Kufr. Imam Kasani reported from Abu Hanifa that he said: "*Dar ul-Islam will be so even if all the people are kafir as long as the law and order is Islamic and security is in the hands of the Muslims.*" Many people try to say that we are living under Dar ul Harb today and that as such the citizens in, for example the UK or Egypt have no sanctity for their lives or property etc... A detailed look at the types of Dar in Islam however will allow us to appreciate that firstly they in grave error and secondly that in fact the concept of Dar is not as simplistic as these people would have us believe.

When there exists an Islamic State there is Dar ul-Islam. The definition of an Islamic State according to the classical scholars such as Imam Kalkashandi and Imam Marwardi is: "*The absolute highest authority for the Muslims worldwide which implements Islam internally and externally and carries Islam to the world*". Clearly no country meets this criteria today and since it is the Khalifah himself who will ultimately enter in treaties with other nations or declare war on them there can exist no Dar ul Harb today either, rather the whole world today is Dar ul-Kufr. Dar ul Harb (land of war) is an attribute of Dar ul Kufr and will not exist in the absence of Dar ul Islam. Upon the establishment of the Islamic state the whole world will potentially be Dar ul Harb outside of the State's frontiers since the foreign policy of the Islamic State is aimed at conquering the world. **NB.** Treaties require two parties hence in the absence of Dar ul Islam there are no treaties for Muslims!

Dar ul Harb has its own ahkam according to the Fuqaha. For example one cannot carry the Qur'an there, there is no need for one to pray the Fard ul kifayah prayers, Hudood is not implemented and rather than enjoining Maoruf (good) and forbidding Munkar (evil) the Muslims have one policy there which is to fight with the niyyah of Jihad i.e. a shoot to kill policy. Hence the word Dar always applies to Ahkaam i.e. the law and order.

One may prefer to classify countries today as either

1. **Dar ul Harb Hukman** i.e. theoretically Dar ul Harb and

2. **Dar ul Harb Fi'lan** i.e practically Dar ul Harb where there are kuffar occupying Muslim land and where the Muslims are required to fight to liberate their land as in Palestine, Chechnya, Bosnia etc.. This latter land is also known as Dar ul Ghasab. Among contemporary scholars Sayed Qutb used the description of theoretical and practical Dar ul Harb. Recently we have seen the use of, for example,
3. **Dar ul Fusuq** (land of sin) and
4. **Dar ul Ridda** (land of apostates) however such terminology is incorrect since sin and apostasy apply to individuals not to land.

Despite the use of terminology such as Hukman and Fi'lan it should nevertheless be remembered that in the absence of Dar ul Islam there can exist no Dar ul Harb.

When the Muslims establish the Islamic State (i.e. Khilafah) the presence of Dar ul Islam at that time may mean the presence of any of the following:

1. Dar Al Aman - which is the land of security i.e. which gives security to the people and it therefore also refers to Mecca. After the Fateh of Mecca when the people had embraced Islam, the Messenger Muhammad (saw) told them that they were free and that no one would touch them, such that they all had security. In his document compiled in Yathrib he (saw) said *'people who live in Madina have security and others have a treaty.'*

2. Dar ul A'hed - is the land with which the Islamic State has a treaty with another country, and the maximum duration of any treaty is 10 Years; the evidence for this is that the Messenger Muhammad (saw) was in a position of weakness during the incident of Hudaibiyyah which resulted in the signing of the ten year treaty with the Quraish. Muhammad (saw) said: *'I will take the maximum treaty Allah allows, 10 years'* A treaty with the kuffar could be with war or without war, the result of which will ultimately define the type of Dar. If Muslims go from Dar ul Islam to Dar ul A'hed they must honour the treaty otherwise they will be betraying Allah and his Messenger.

3. Dar Ul- Dhimma - is where only the leader is Muslim but it is still considered to be Dar Al Islam because Islam is implemented upon the people. This happened in Yemen at the time of the Messenger Muhammad (saw) where the people were Christians but the leader was Muslim.

4. Dar ul Muwada'ah - This is the land where people have agreed a ceasefire in order to decide whether they wish to embrace Islam or not. The Messenger

Muhammad (saw) said "*Call them to Islam and if they do not agree then ask them to pay Jizya.*"

5. Dar ul Baghi - This situation may arise when people rebel against the state. This may be because they do not want to implement a part of Islam or because they want to take measures against the state e.g. to fight the Khalifah. The Islamic state may give such people time to reconsider. In the time of Abu Bakr Al Siddiq, Al-Murtadeen refused to pay Zakat to the Khalifah, instead paying it to their own people. The result was the Khalifah fighting them and the loss of many lives.

6. Dar ul Tatarrus - This is land where the kuffar have entered and hijacked the area i.e. occupied it. They may have taken women and children hostages. The state would need to make a difficult decision as to whether to fight them or not in this scenario.

7. Dar ul Sulh - This will arise where during battle between the Muslims and the kuffar there is agreement to a ceasefire for rest and refreshment. The war will probably be resumed later.

8. Dar ul Khulu - In the event of the death of the Khalifah the Islamic state may find itself in one of three situations: i) In peace time ii) during war, where the Muslims will have an opportunity to finish the war before they appoint another Khalifah or iii) where the Khalifah is assassinated in time of fitnah e.g. people may say that they killed the Khalifah because he declared kufr buwah whilst others disagree. Khulu means a vacuum in Arabic. It was during a war that the Tartars killed a Khalifah.

9. Dar ul Jihad - This is a situation where the Khalifah is under the control of the kuffar fighting the Muslims. The Amir of Jihad will be in charge and the ahkaam of Jihad will apply until after the war.

10. Dar ul Hiraba - is an area where Muslims are prohibited to be for security reasons. This may be because there are rebels staying there. It is prohibited, for example, to pray in such areas.

Today we can classify the world under four categories of Dar ul Kufr (i.e. in the absence of Dar ul Islam):

1. Dar ul Kufr - Muslim countries where Muslims have authority e.g. Pakistan, Saudia Arabia and Malaysia.

2. Dar ul Kufr - Non-Muslim countries where the kuffar have authority e.g. The United States, Britain and France.

3. Dar ul Kufr - Muslim land where the kuffar inhabitants have taken authority e.g. India and Lebanon.

4. Dar ul Kufr - Which is Dar ul Ghasab either

- i) Muslim countries occupied by the kuffar and under their authority e.g. Kashmir, Palestine and Northern Spain or
- ii) Non-Muslim countries occupied by other kuffar and under their authority e.g. Ireland and Cuba.

Note: In **Dar ul Ghasab**, where Muslim land has been occupied by the kuffar, Muslims are prohibited from eating the enemy's vegetables. Only the prayer and trade of the Mujaahid are accepted there. To live, fight and eat whilst involved in Jihad is a form of worship otherwise to stay in such areas is prohibited. Those Muslims, for example, in Palestine need therefore to engage in the Jihad physically, verbally and financially. The kuffar there are called kafir Harbi Muqtasib and only one hukm applies to them i.e. that they be killed wherever the Muslims find them. However note that even during fighting the ahkaam (divine rules) of Jihad must be observed i.e. Muslims are forbidden from killing women, children, the elderly or trees unless killed accidentally and unavoidably because for example they are located amongst the enemy. But the military institutions and governments of any country occupying Muslim land are legitimate targets and if its liberation cannot be achieved without their destruction, then their destruction will become obligatory.

Once the Islamic State is established anyone in Dar Al Harb will have no sanctity for his life or wealth hence a Muslim in such circumstances can then go into Dar Al Harb and take the wealth from the people unless there is a treaty with that state. If there is no treaty individual Muslims can even go to Dar Al Harb and take women to keep as slaves. An evidence for this is that when the Messenger Mohammed (saw) entered Yathrib and he made treaties with all surrounding tribes except the Quaraish and he said *"Whoever deals with them he will betray my treaty and if they enter the state they will be killed"* and the Messenger Mohammed (saw) initiated war with them. In addition it has been narrated that the Messenger Muhammad (saw) declared Khaybar Dar ul Harb and that Muslims living there left their businesses since it became prohibited to continue to live there and engage in business.

Finally although living in Dar Al-Harb permanently is prohibited you can live amongst the kuffar in Dar Al Islam. Nowadays you can live in Dar ul Kufr as long as you fulfil all your Islamic obligations such as carrying Da'wah to the society, enjoining Maoruf and forbidding Munkar and working to establish the Khilafah.

Which Types of Fighting in Islam are Considered Jihad?

A classification of types of fighting in Islam together with an explanation of each from the detailed evidences is set out below:

1. QITAAL AHL AL-RIDDAH – *Fighting the apostates*

This is not Jihad because it is not fighting the Kuffar within our definition. An example of this is where Abu Bakr Siddique (ra) fought the Murtadeen. This is implementation of the Penal code in Islam, a job of the Khalifah, which was Abu Bakr (ra) at the time of the example. Imam Nawawi in his book *Al-Minhaj* said what makes someone Murtad is "To sever Islam by intention or saying or action whether in mockery or through stubbornness or belief" and it is reported in Muslim upon the authority of Abdullah Ibn Omar (ra) and in Bukhari upon the authority of Abu Hurairah (ra) that the Messenger Muhammad (saw) said: "*whoever changes his Deen kill him*" At the time of Abu Bakr he was therefore justified in fighting people who changed the Deen by refusing to pay Zakaat to the State and later declared there apostacy. Ibn Qudamah Al-Maqdisi says in His *Mugni* that "fighting the Murtadeen is more important than fighting original Kuffar" because this is an internal enemy. This is evident however one cannot draw an analogy and say that fighting against the kufr regimes above us is more important than, for example, to fight in Kosova since no analogy exists here.

The reality of apostates is that they are either:

- (i) In charge of the regimes and arrest and torture people (with Muslim police and army)
- (ii) Some apostates join with the kufr forces and occupy Muslim land and Muslim armies are with them
- (iii) Apostate individuals exist who do not fight the State or
- (iv) Apostates fight against the State.

Of these four (i) is not Jihad to defend anything and nor could we implement Hudood upon anyone since there is no Khalifah as at the time of Abu Bakr (ra) and we are now living in Dar Al-Kufr not Dar Ul-Islam, hence (iii) can also not be fought as Jihad. However (ii) is Jihad as in the case of Fighting the US and Kuwaiti forces in the Gulf war. As for (iv) there is disagreement as to whether

it is Jihad or not. Imam Kasani says it is Jihad whereas Ibn Qudama said it is not Jihad. In any case no one said that is a methodology to establish the Khilafah! Among those who say that (iv) is not Jihad are Imam Ali, Omar Al-Farouq, Saeed Bin Abi Waqqas and Ubada Bin Al-Jarrah (raa), in addition there is no evidence that Abu Bakr (ra) said that he fought them *for the sake of Allah* as one does in Jihad but rather because they did not pay Zakaat and became Murtadeen.

An unfortunate opinion has been advocated by some Jihadi groups that Muslims in the army in Muslim countries are legitimate targets because by joining the army they have committed sin and so at this time they cannot be called Muslims since they are not submitting (making Taslim) to Allah (swt). They are therefore apostates and as such are now Murtad who can be killed on the way to establish the Khilafah! We must appreciate that in the first place even if these people were to commit apostacy it is the sole right of the Khalifah through his courts and judges who have the divine right to implement the Hudood. The view posited here is in fact very similar to the Khawarij of the past who also used to make Takfir (i.e. declare apostacy) for anyone who did a Haram (i.e. prohibited) act. However this view is clearly incorrect since every son of Adam (apart for the Prophets of Allah) are subject to sin and error and adopting this opinion would mean that most of us would therefore need to be killed at one time or another because of apostacy! In addition the Messenger Muhammad (saw) said: **"Every Muslims blood has sanctity except for three: the adulterer, the apostate and the murderer"** and **"whoever kills a Muslim by mistake must pay bloodmoney"** hence how can then kill Muslims in the army deliberately!?

2. QITAAL AHL UL-BAGHI – *Fighting the rebellious*

Generally speaking there are three types of rebellions:

- (i) Those who rebel against the authority by some means e.g. deny rights or orders or work to overthrow the leader without fighting
- (ii) Those who have power and are able to use it to remove a government
- (iii) Armed resistance against the State.

The Jumhur of the Fuqaha say that there must be a sign of rebellion before the rebels can be fought i.e. *Shubha Shar'iyah*. Such as when Muslims rose against Imam Ali, he knew what they intended to do even without clear-cut evidence. So is fighting the Baghi Jihad? No, because it is not fighting the Kuffar to make Allah's Deen highest and Allah (swt) says: ***"If Muslims fight with other Muslims protect and return their rights and ask them to reconcile afterwards."*** Moreover the people killed at the time of Ali were given Ghushl and Janaza

and were buried indicating that it was not Jihad i.e. they were not treated as Shaheed.

3. QITAAL UL-HIRABAH – *Fighting the highway robbers*

Imam Nawawi said in his *Mughnim Muhtaj* that "They are terrorist gangsters from among the Muslims, apostates or Ahl Al-Zimmah. They come out with weapons to steal, take money and rape. They usually stay in caves and mountains etc...Its an obligation to ask them to drop their weapons and surrender themselves. The State is obliged to send forces to destroy them" Imam Malik said that it can be classified as Jihad or as punishment (i.e. penal code) depending on who we are fighting (i.e. Jihad if they are Kuffar (even if they are Zimmis) and penal code if they are Muslims). The other three classical scholars (Hanafi, Shaafi and Hanbali) agree that the one who fights Highway robbers does so under the order of the Khalifah as a penal code. Whereas Ibn Taymiyyah (ra) is unique in his opinion that whether they are Muslim or kafir it is called Jihad.

4. QITAAL UD-DIFAA' ANN AL-HURRUMAAT AL-KHASSAH – *Fighting to defend personal sanctity*

To defend ones life, wealth or honour (whether Muslim or non-Muslim) is not Jihad according to all the Fuqaha. Nevertheless it is a duty to defend these upon the individual. The evidences for this are many and include Allah (swt) in the Qur'an: "***Whoever does aggression against you retaliate (defend yourself)...***" and the hadith collected in Abu Daoud where Rasoul Allah (saw) said: "*Whoever dies defending his wealth dies Shahid, Whoever dies defending his wealth dies Shahid, whoever dies defending his life dies Shahid, whoever dies defending his Deen dies Shahid, whoever dies defending his family dies Shahid...*" and the evidence to defend non-Muslim Zimmis is that it is narrated upon the authority of Abdullah Bin Omar (ra) that the Messenger Muhammad (saw) said: "*Honour the covenant to the people of Zimmi*" on his deathbed.

Al Zimini is usually used for the one who is living in Dar Al Islam. People define it differently, some say it is the one who lives permanently in Dar Al Islam or the one who does not believe in Islam but submits to its law and so on. But what if there is no Dar Al Islam, would there therefore correspondingly be no Zimini today and no security for non-Muslims in Muslim land? Do they have no rights and we have no treaty with them? If so then those Jihadi movements and others who adopt that non-Muslim civilians, including tourists, in Muslim countries can be killed are correct. However to link the definition to a place is wrong, rather a correct definition would be: *'the non Muslim who lives permanently in Muslim counties, has a treaty to do so,*

accepts the law and order of Islam and pays Jizyah' and therefore everyone must honour the contract of the Muslims in Muslim Countries.

Our comprehensive and restrictive definition must include the following:

- (i) That they live in Muslim countries
- (ii) That they have a treaty to live permanently in Muslim countries (non-Muslims who visit us temporarily are not called Zimmi but mustamin)
- (iii) That they accept the law and order of Islam i.e. not to abuse Islam and even to re-establish Islam with the Muslims
- (iv) That they must pay Jizyah, although the condition for this is to have a khalifah i.e. it is up to us to establish the Khilafah to take Jizya from them.

We cannot simply say that because we have no Khilafah we can just go ahead and kill any non-Muslim, rather we must still fulfil their Zimmah and work to establish the Khilafah in the meantime, whose destruction cannot be laid at the foot of all non-Muslims in Muslim countries!

NB. A Muslim country is any place Islam conquered or where Islam was implemented or where the majority of people embraced Islam on it. If the signs of Islam become prevalent e.g. the Azaan and Eid celebrations, then it will become a Muslim country although the details of this is a matter of difference of opinion. Imam Kalkashandi said that whoever enters a land whether by force or agreement or by the people embracing Islam on it or even if the Deen starts to prevail there, it becomes Muslim land and Imams Hanbali, Shaafi and Hanafi quote the Qur'an in Surah Al-A'raf at verse 56 and say the same as this i.e. that it becomes Muslim land if any of the above occur.

Hence the people living in our countries still have the covenant of the State or Zimmah. The Messenger Muhammad (saw) said that "*The Zimmah of the people is until the day of judgement*" however there is no ambassador (i.e. Khalifah) to make a treaty with them today.

Finally we must remember that **defending** life, honour or wealth means just that i.e. that we must be in a **defensive** position as opposed to an **offensive** position. Ibn Qudama Al-Maqdisi said in his Al-Mughni; "If he defends himself he shouldn't use an aggressive weapon but a defensive one" And among the three; honour and then life take priority over wealth if a conflict arises.

Moreover generally you can only defend against a Kafir, animal or a Muslim who has no sanctity for his blood i.e. "*...the adulterer, he who kills intentionally or*

an apostate.." according to the hadith of the Messenger Muhammad (saw). Otherwise we are not allowed to fight with Muslims and if a Muslim comes to strike you, you can either just protect yourself from his attack (as opposed to fighting him back as would be the case with the Kafir) or do what one son of Adam did when his brother came to kill him and say: 'You may raise your hand to kill me but I will not raise mine to kill you because I fear Allah. Lord of the Worlds'.

5. QITAAL UD-DIFAA' ANN AL-HURRUMAAT AL-A'MMAH – *Fighting to defend public sanctity*

For example if people enter the Islamic State and start to burn crops, kill people or build nightclubs violating thereby the sanctity of Allah (swt) and the State. Imam Qurafi said that its Fard to defend the public sanctity and the Muslims must fight against it when 'Munkar is done publicly, obligations are left, prohibition is spread and the Shari'ah rules are dismantled' because Rasoul Allah (saw) said: *"Whoever sees Munkar let him change it with his hand and if you can't by your tongue and if you can't by your heart and that is the least thing you can do if have Iman in your heart..."* (collected in Sahih Muslim). Ibn Qudamah Al-Maqdisi added that fighting to remove such evil in society is Fard Kifiyyah (i.e. sufficient Fard). Ibn Muflih Al-Maqdisi said that to change Munkar is Fard Ayn (an individual Duty) upon those who witness it upon those who are capable. Those who say that we must fight use the hadith of the Messenger Muhammad (saw) narrated in Ibn Majah, Abu Daoud and Muslim where he (saw) said: *"Whoever lives with people involved in sinful acts and they are capable of rising to change it and they don't do so, Allah will punish them before they die"* and in another narration in Ahmad: *"Whoever does something evil among them and they are more in number than him and more powerful and don't change him Allah will punish them"*

In addition to this the Fuqaha distinguish between the Munkar which is Assassi and that which is Fari i.e. that which is the basis for other Munkaraat and that which is not. Only that which is Fari, which is known by necessity as Haram based on definite evidence with clear cut meaning (i.e. Qati Thabout with Qati Dalalah) and which the individual has the capability of changing with his hand can be changed otherwise it is prohibited to use force to try to change it (since the hadith of Rasoul Allah (saw) says *"...and if you can't..."* which is a binding condition of being capable of changing it). In which case the most we can do is to forbid it (i.e. do *An Nahi An Al-Munkar* as opposed to *Taghir Munkar*). Hence if the prohibited action is allowed by the law and order one cannot change it unless one changes the law and order in which case the most we can do is to address the Munkar verbally, carrying Daw'ah openly

and publicly the way the Prophet (saw) did in Mecca before the establishment of the Islamic State in Madina.

So is this Jihad or not? Ibn Qudama Al-Maqdisi shed some light on this question. He posited that there could be one of three possible scenarios:

- (i) To prevent individuals doing Munkar against other individuals (e.g. rape)
- (ii) If the State requests people to rise and prevent evil by force
- (iii) Where the State allocates forces to stop evil by force.

In Ahmad it is narrated that Rasoul Allah (saw) said: "*Jihad is four, commanding good, forbidding evil, speaking truth at the time of hardship and not co-operating with whoever does Haram openly and publicly*" Hence Ibn Qudamah concluded that these must all be Jihad *linguistically* but not the Jihad of fighting the Kuffar according to our definition of Jihad. In fact all the fuqaha agree that to fight to remove Munkar is not Jihad despite the Hadith mentioned here and that collected in Nisai which states that "A man asked Rasoul Allah (saw) when he sat on his camel 'Which Jihad is the best?' and He (saw) said: 'A word of truth before an oppressive ruler'" and that in Sahih Muslim which states that the Messenger Muhammad (saw) said: "*There is no prophet that Allah sent before me but he had supporters and companions who did what he said and obeyed his commands. After them there are many successors and they will say what they don't do and do what Allah forbids. Whoever fights them with his hand is a believer, whoever fights them with his tongue is a believer, whoever fights them with his heart is a believer and if you do nothing you can't claim you are a Muslim*"

6. QITAAL AL-MUNABAZAH – Fighting against the Khalifah

Fighting against the corruption of the rulers has been given many names including the following:

- 1. Qitaal Al-Khuruj – An uprising
- 2. Qitaal Al-Khuruj Al-Musalah – An armed uprising
- 3. Qitaal Al-Saworah – A Revolution
- 4. Qitaal Al-Saworah Al-Islamiyyah – Islamic Revolution
- 5. Qitaal Al-Saworah Al-Musalaha – Armed Revolution
- 6. Qitaal An-Nohoud – An uprising
- 7. Qitaal Al-Malhamah – Massacres
- 8. Qitaal Al-Fitnah – Fighting the Fitnah
- 9. Qitaal Al-Zalama – Fighting the Oppression
- 10. Qitaal Al-Umara – Fighting the Rulers
- 11. Qitaal Al-Hukmaan – Fighting the Rulers
- 12. Qitaal Al-Inkalaab – A coup

13. Qitaal Al-Harakaat Al-Tahririyyah – Liberation Movement
14. Qitaal Al-Harb Al-Ahliyyah – A civil war

It is narrated in Muslim that the Messenger Muhammad (saw) said: *"The best Rulers are those who like you and who you like and who pray for you and who you pray for and the worst rulers are those who you hate and who hate you and who you curse and who curse you"* We said 'O Rasoul Allah should we not raise the sword?' He replied: 'No as long as they establish Salat and whoever has a Ruler over him and he sees haram (in his personal actions) let him reject it but he should not rise his hand and leave obedience'" and in Muslim that Huzaif Abdul Yaman (ra) said: *"Ya Rasoul Allah, we used to be in an evil situation and Allah brought us goodness are we going to experience bad days after this?"* He (saw) replied 'Yes' and we asked 'How will that be?' He (saw) said: *"There will be Rulers after me who don't follow my Sunnah and there will be men among them with hearts of devils and bodies of humans"* We asked: 'What should we do?' and He (saw) said: *"Listen and obey even if he lashes your back or takes your money"* and in Bukhari and Muslim that the Messenger Muhammad (saw) said: *"Listening and obedience is an obligation upon a Muslim whether he likes it or dislikes it as long as he is not ordered haram. If he is ordered haram there is no listening or obedience"*

It is clear from the above that as long as Islam is implemented you cannot rise against the rulers but what about if Islam is not implemented? And is this called Jihad?

There are four opinions among the fuqaha on this issue:

1. *Those who say that it is obligatory to use the sword if we are able in order to remove the people of corruption and to establish the truth.*

Among the adherents of this view are the Muatazilah, Zaidis, Khawarij and Murji'ah. They refer to Chapter Maida verse 2 where Allah (swt) says: *"Co-operate on the Birr (good deeds) and Taqwa (piety)..."* and *"Fight those who are corrupted until they refer to Allah"* [EMQ 49:9] and *"My hukm/Ruling of Islam cannot be in the hands of oppressors"* [EMQ 2:124] in support of their argument.

2. *Those who say we can't use the sword even if we are killed by them, until the twelfth Imam rises and orders us to fight.*

Among the adherents of this view are the Shia.

3. *Those who say that to use the sword is Baatil even if all the children have been killed, whether the Imam is just or unjust or even if he is Faasik, we can't rise.*

Among the adherents of this stance are the Ahl Al-Hadith including Imam Nawawi who said that to rise against the Rulers is Haram by consensus of the Muslims even if they are Fasik, Zaalim or Faajir.

4. *Those who say that removing the corrupted rulers by force is obligatory upon those who have the capability and its classified under the chapter of commanding good and forbidding evil which has never been abrogated.*

Whereas all the ahadith of listening and obeying have been abrogated by the orders of fighting legislated in the Qur'an. This is the opinion of Imam Ali, his friends, A'isha, Talha, Zubair and all their companions, Muawiyah and his companions, Hussain Bin Ali, Abdullah Bin Zubair and their companions (raa)' according to Al-Muhalla by Ibn Hazim.

The above opinions can be summarised into three;

- (i) Those who say that its obligatory to rise because of the kufr from the Haakim or from his implementation
- (ii) Those who say that its permissible to rise even if its not kufr Buwah (because some Sahabah did not rise against oppressors in their time)
- (iii) Those who say its only obligatory to rise when we see Kufr Buwah.

The opinions above are not however relevant today since we are no longer talking about a situation where a Khalifah has just declared Kufr Buwah (i.e. Kufr to spread within society even the Khalifah rejects it) after Islam was being implemented as a law and order, since the last time we had Islam implemented and therefore Dar Ul-Islam was before the 3rd of March 1924!

Rather our situation today is not one of rising the sword to correct the Leaders but one where the whole world is in a state where Dar Ul-Kufr has settled similar to the situation of the Messenger Muhammad (saw) before the establishment of the first Islamic State (Dar Ul-Islam) in Madina. The problem is that some current scholars have understood that we are obliged to rise the sword against the current leaders because of ahadith of the Messenger Muhammad (saw) which are talking of raising the sword against a Khalifah in Dar Ul-Islam implementing Kufr Buwah whereas the ahadith say "...*When you see Kufr Buwah...*" indicating that it is just happening now. They have clearly misunderstood the reality and rules (Ahkaam) of the two Dars and the transformation of one into the other. All the ahadith we are referring to talk of raising the sword (*Munabazah bin saif*) as the Kufr spreads **after** Islam has been implemented whereas our rulers today never implemented Islam and we were never in a situation where we were obeying them in the first place! Dar Ul-Islam and Dar Ul-Kufr therefore share the fact of Muslim land having sanctity and defending it against enemies occupying it but do not share the

rules of accounting the ruler, raising the sword and obeying the ruler. In fact in 1924 a few Muslims did rise from India and Egypt to correct the situation but unfortunately to no avail. That was the time of transformation to Dar Ul-Kufr and since that time all Muslim countries have been run by kufr regimes until today.

[NB. Hence the Muatazilah and Ibn Hazim are correct as far as accounting the Khalifah is concerned but wrong as far as abrogation of the ahadith on listening and obeying since fighting had already been legislated when these ahadith were mentioned.]

All this said and done none of the Ulema of the past said that this kind of fighting is called Jihad.

7. QITAAL AHL AL-FITNAH – *Fighting where Muslims don't know whose right or wrong*

Fitnah can relate to fighting or not fighting, we are concerned with that related to fighting between Muslims here. There are many ahadith of the Messenger Muhammad (saw) talking about the fitan which will occur before the day of Judgement such as that collected in Tabarani that the Messenger Muhammad (saw) said: *"Allah didn't permit during fitnah anything that has been forbidden before, how could some of you meet his brother, salute him and after that kill him"* and that collected in Ahmad upon the authority of Ibn Masoud that Rasoul Allah (saw) said: *"There will be Fitan (test) where the one who is asleep is better than the one awake and the one awake is better than the one walking and the one walking is better than the one riding and the one riding is better than the one swimming. All the people who die in these battles are in hell-fire"* We asked 'When will this happen?' He (saw) replied: 'In the days of Harj' And we asked 'When are these days?' and He (saw) said: 'When a man can't trust the person next to him'.

As far as the Ulema are concerned there are four possible scenarios;

1. Fighting between Muslims where we don't know who is right or wrong
2. Where both Muslims are corrupted and no one is right
3. Where fighting occurs between Muslims and the Khalifah calls us to fight
4. When people are seeking power for a good cause through fighting such as where Muslims fight against other Muslims in the army to establish the Khilafah.

[Refer to Imam Nawawi's *Fath Al-Bari*, Imam Kasani's *Ba'ae Al-Sama'* and Imam Shawkani's *Nailil Awtar* for the above classification]

What is our responsibility here and are any of the above Jihad? In fact Allah (swt) says in the Qur'an: *"If two groups of people fight among the believers reconcile between them and if one of them was right but the other rejects, fight altogether the one who rejects and the reconcile again"*[EMQ 49:9] The ayah is general and therefore applies to individuals as well as the Khalifah asking people to reconcile. It is clear from this that the fighting of Fitnah is not Jihad whatever of the four types it may be, even if it is supposed to be for a good cause because Jihad is to fight Kuffar in order to make Allah (swt)'s Deen the highest.

8. QITAAL MUGHTASIB UL-SULTAH - *Fighting against one who takes authority by force*

This situation may arise when someone kills the Khalifah and takes power by force. The fuqaha differ as to whether one is allowed to rise against this person or not. Those who say that it is haram to accept him in power also say that we should kill him referring to the hadith collected in Muslim upon the authority of Amr Bin Al-Ass (ra) that the Messenger Muhammad (saw) said: *"...obey him (i.e. the Khalifah) if you can and if another man arises kill the latter..."* Those who argue against fighting say that we must listen and obey. They use as evidence the hadith collected in Muslim upon the authority of Al-Gafari that Rasoul Allah (saw) said: *"Listen and obey even if he was old and wrinkled."* And Ummu Hasseen (ra) narrated that the Messenger Muhammad (saw) said: *"even if he is a slave who guides you by the book of Allah, listen and obey"* and in another narration *"even if he was black"*

Imam Nawawi argues that the hadith is talking about a 'slave' not a 'slave of Allah' and we could never accept a slave as a Khalifah except by force, hence we must obey him even if he is put there by force. In fact the hadith is talking about the common man and the ahadith *"If you have a Khalifah and another comes kill the latter"* and *"whoever rises to divide you kill him"* are evidence to kill the latter. And this is the opinion of Imam Maliki and Shaafi, whereas Hanafi and Hanbali say that we will obey him if he comes by force. In fact Imam Hussain is the only example we have for this, who fought against Yazid. In any case this does not constitute Jihad since it is not fighting the Kuffar in order for Allah (swt)'s Deen to be highest.

There are also other types of fighting which are not considered Jihad such as;

9. QITAAL AHL AL-ZIMMAH - *Fighting Zimmis who rise against the State* (already mentioned above)

10. QITAAL UL-GHARAH - *Fighting to take booty*

11. QITAAL UL-WIHDAAH – *Fighting to unify*
12. QITAAL IQAMAT AL-DAWOLAH – *Fighting to establish the Islamic State*

The Method to Establish the Khilafah

The Method to establish the Islamic State is a matter of Ijtihad. Based on scanning all the evidences Istiqraar Al-Adillah and taking as our example the Messenger Muhammad (saw) we can see that the divine method that he (saw) employed from Mecca (Dar Ul-Kufr at that time) to Madina (where he (saw) established Dar Ul-Islam) had three components:

A- Da'wah to Al-Khair: *Calling Society to Islam* (i.e. culturing Society)

The Divine Method for which is derived from the Verse [EMQ 16:125] with three points:

1. Al-Da'wah bil-Hikmah: Carrying Da'wah by and addressing the thoughts by Hikmah i.e. Fiqh and Evidences
2. Al-Da'wah bil-Mawo'izzah: Preaching to people and touching their emotions by relating the matter to Allah and the Hereafter.
3. Al-Da'wah bil-Jidaal Al-Mamdouh: Debating with people and challenging all their thoughts and traditions.

B- Al-Amr Bil-Ma'ruf (*Commanding good*) and **An-Nahie Ann Al-Munkar** (*forbidding the Evil*) of Society (i.e. adopting the interests of the people and exposing man-made Law)

The divine Method to command good and forbid evil in society is derived from the Verses [EMQ 104:1-7], [EMQ 107:1-7], [EMQ 111:1-5] and [EMQ 68:8-16] and the Ahadeeth for forbidding evil collected in Bukhari, Muslim and Ahmad with three points:

1. Al-Tandeed: By Using strong and harsh words against the evil of society.
2. At-Ta-Tteer: By exposing the evil of society from all directions i.e. politically, economically, Socially and as far as the foreign policy is concerned etc...
3. Al-Akhezz A'la Al-Yadd: Forbidding evil forcibly

NB. All the above are done as Ta-assie i.e. following the Messenger Muhammad (saw) the way he called the society of Makkah and the way he

commanded good and forbade the Evil of the society of Makkah. And these have nothing to do with the method of calling individual non-Muslims to Islam or the method of commanding good and forbidding evil for individual Muslims or non-Muslims.

C- Implementation of the Shari'ah (i.e. *Tabdeeq Ul-Islam*) by giving Bay'iah to a Khalifah to implement Islam

Finally there is no doubt that the implementation of the Shari'ah cannot be fulfilled without taking Authority (i.e. Sultaan) which the Messenger Muhammad (saw) sought after the order came from Allah (swt) in the ayah: "*Say: O my lord let my life be based on truth, and my departure be based on truth; and grant me from amongst them authority (i.e. Ansaar) who support me*" [EMQ 17:80] and which he finally succeeded in obtaining at the second pledge of A'qabah (narrated in the Musnad of Imaam Ahmad and in Al-Mujaam ul-Kabeer for At-Tabarani).

Therefore seeking Nussra (the Method to take authority) is a Divine prerequisite because it is an introduction to the Wajib of implementation of the Shari'ah from the General principle: Muqadimat-ul-Wajib Wajib or the Introduction to the Obligatory is Obligatory. Originally, it is a Fard Kifaayah upon Muslims wherever they are to take the authority in order to implement Islam i.e. 'a decisive request by the Legislator to responsible Muslims (wherever they may be) to do, as a matter of sufficiency within a time limit.' However, nowadays it is a Fard Kifaayah Muhattam upon Muslims after the expiry of three days after the destruction of the Islamic State on the 3rd of March 1924 i.e. 'a decisive request by the Legislator to the responsible Muslims (wherever they may be) to do, as a matter of sufficient urgency.'

As far as seeking Nussra is concerned there is no a specific circumstances in which we must seek Nussrah to take authority provided we seek it from Muslims in positions of Nussrah to remove the Kufr authority ruling above us. The definition of Nussrah is 'persuading influential Muslim individuals in power to hand authority to Muslims in order to implement Islam'. Hence seeking Nussrah by Islamic Movements does not mean seeking protection from individual Muslims nor does it mean asking others to carry weapons and fight the regime while we do nothing rather it means the Islamic Movement requesting power to support Muslims from the people of authority by removing any material obstacles. Hence Al-Muhajiroun do not request people of Nussrah to do military actions to take power but request them to support Muslims by handing the authority to them by actions they are allowed and capable of doing in order to fulfil the task of implementing the Shari'ah.

Therefore those who say that Jihad is the methodology to establish the Khilafah must bring evidence that the methodology mentioned above has been abrogated by Jihad. As far as the issue of abrogation is concerned, abrogation is defined in Islam as "removing the hukm Shari' which is firmly mentioned in a previous divine address by a later divine address"

The conditions for a legitimate abrogation are that:

- i. The evidence of the abrogating hukm and that of the abrogated hukm must be divine and not rational
- ii. The evidence of the abrogator must come later
- iii. There must be a divine argument indicating that the evidence of the abrogator abrogates the evidence of the abrogated
- iv. The abrogator must be like the abrogated or better

Since there is no evidence that Jihad has been legislated for anything other than conquering land (offensive Jihad) waged by the Khalifah and defending property, honour and life (defensive Jihad) Jihad does not abrogate anything before it such as the methodology to establish the Islamic State mentioned above. Indeed the most celebrated experts on Jihad such as Ibn Qayyim, Ibn Taymiyyah, Ibn Qudamah Al-Maqdisi and Imam Kasani all agree on Jihad being either an offensive duty or a defensive one, as already mentioned, with no mention of it as a methodology to establish the Islamic State. Hence since the argument of Jihad as a methodology does not satisfy (iii) above we do need to proceed further with the issue of abrogation here.

Conclusions

The question of whether Jihad can be used to remove existing regimes is a relatively new issue which must be addressed. The Muslim Ummah has never before been in a position where we are divided into over 55 nations each with its own oppressive kufr regime ruling above us. There is no doubt therefore that the vital issue for the Muslims today is to establish the Khilafah. Allah (swt) makes it clear in the Qur'an that there is no compulsion in the Deen hence we do not fight the Kuffar to become Muslims. There is also ample proof from the sayings and actions of the Messenger Muhammad (saw) that non-Muslims have sanctity for their lives unless they are at war with the Muslims either determined by the Khalifah in his foreign policy or (as in today's situation) they are violating the sanctity of Muslim land, honour or life. Much advice has also been given by the Messenger Muhammad (saw) on Jihad which makes it clear that this duty is pro-life as opposed to anti-life, such as not killing women and children, not killing the elderly or monks, not targeting the trees or animals etc... Hence although foreign forces occupying Muslim land are legitimate targets and we are obliged to liberate Muslim land from such occupation and to co-operate with each other in the process, and can even target their embassies and military bases, there is no divine evidence for us to fight against Muslims who are part of the regimes in Muslim countries as a methodology to establish the Khilafah. Rather we urge our Muslim brothers in Islamic Movements who are engaged in this violation of the Shari'ah to look at the evidences and follow that which is based on Yaqeen and may Allah (swt) guide us all to the best.